


# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 6.70.1059PCT	<b>FOR FURTHER ACTION</b>		See Form PCT/PEA/416
International application No. PCT/IB2004/003477	International filing date ( <i>day/month/year</i> ) 22.10.2004	Priority date ( <i>day/month/year</i> ) 24.10.2003	
International Patent Classification (IPC) or national classification and IPC B65D75/58, B65D77/06			
Applicant INBEV S.A. et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> <i>sent to the applicant and to the International Bureau</i>) a total of    sheets, as follows:</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s))    , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I      Basis of the opinion</p> <p><input type="checkbox"/> Box No. II     Priority</p> <p><input type="checkbox"/> Box No. III    Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV    Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V      Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI     Certain documents cited</p> <p><input type="checkbox"/> Box No. VII    Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII   Certain observations on the international application</p>			
Date of submission of the demand  20.05.2005		Date of completion of this report  19.09.2005	
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer  Rodriguez Gombau, F  Telephone No. +49 89 2399-	



**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/IB2004/003477

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**Box No. I Basis of the report**

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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

**Description, Pages**

1-4 as originally filed

**Claims, Numbers**

1-10 as originally filed

**Drawings, Sheets**

1/1 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	3-7,9,10
	No: Claims	1,2,8
Inventive step (IS)	Yes: Claims	
	No: Claims	1-10
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

2. Citations and explanations (Rule 70.7):

**see separate sheet**

1. The following document is referred to in this communication:

- D1: PATENT ABSTRACTS OF JAPAN vol. 2003, no. 11, 5 November 2003  
(2003-11-05) -& JP 2003 191971 A (DAIWA CAN CO LTD), 9 July 2003  
(2003-07-09)
- D2: PATENT ABSTRACTS OF JAPAN vol. 2002, no. 09, 4 September 2002  
(2002-09-04) -& JP 2002 128102 A (FUJIMORI KOGYO CO LTD), 9 May  
2002 (2002-05-09)

2. INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT. Document D1 discloses (the references in parentheses applying to this document):

"A bag (cf. fig. 1 element 1) suitable for containing an alcohol beverage comprising:  
at least two panels having adjacently positioned edges forming at least one seam (cf. fig. 1 and paragraph 7), the seam having a joined seam portion where the adjacently positioned edges of the panels are joined together, and an open seam portion where the adjacently positioned edges of the panels are not joined together (cf. fig. 1 and paragraphs 7 and 9); and,  
a bag neck molding (cf. fig 1 element 2) extending through the open seam portion, the bag neck molding being secured in sealing relation with the panels of the bag at the open seam portion (cf. paragraph 9), and the bag neck molding supporting a valve (cf. fig. 1 element 25) accessible for operation from outside the bag and supporting a spear (cf. fig. 1 elements 24 and 24') extending into the bag through which the beverage may pass."

Moreover, document D2 also discloses a bag according to the features of claim 1.

3 DEPENDENT CLAIMS 2-10

3.1 Dependent claims 2-10 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

i) The additional features of claims 2 and 8 are already known from document D1 (see fig. 1 and paragraphs 7 and 9).

ii) Concerning dependent claims 3-7, 9 and 10 it is pointed out that the features of these claims appear to relate to minor constructional features which, insofar as not directly disclosed in the prior art, appear to relate to obvious modifications thereof. Such features will be selected and used by the man skilled in the art as and when he needs them, without any inventive thought being required. The subject-matter of these claims appear to be lacking in inventive step (Article 33(3) PCT).

### **Further observations**

4. Independent claim 1 is not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
5. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
6. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 and D2 is not mentioned in the description, nor are these documents identified therein.

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